

NEW SECTION

WAC 458-17-101 Assessment and taxation of ships and vessels.

(1) **Introduction.** This rule explains the application of the personal property tax to ships and vessels. Ships and vessels that are not subject to the excise tax imposed by chapter 82.49 RCW are either subject to the state property tax levy or are completely exempt from both the property tax and the excise tax. This rule covers only those ships and vessels subject to the property tax. See chapter 308-93 WAC for information regarding ships and vessels subject to the excise tax, which is administered by the department of licensing.

(2) **Which ships and vessels are subject to property taxation?** Under RCW 84.36.080, a ship or vessel is subject to the state portion of the property tax if the ship or vessel is:

- (a) Used exclusively for commercial fishing purposes; or
- (b) Primarily engaged in commerce and has or is required to have a valid marine document as a vessel of the United States.

Accordingly, such a ship or vessel is subject to assessment by the department of revenue for that portion of the property tax levied by the state for state purposes.

(3) **Which ships and vessels are exempt from property taxation?** The following are exempt from all property taxation, including the state levy:

- (a) A ship or vessel listed in the state or federal register of historical places (see RCW 84.36.080);
- (b) A ship or vessel with an assessed value of less than five hundred dollars (see RCW 84.36.015); and
- (c) A ship or vessel that is not within the scope of subsection (2) of this rule (see RCW 84.36.090).

(4) **What are a ship or vessel owner's obligations?** Under RCW 84.40.065, every individual, corporation, partnership, trust, and estate must list with the department of revenue any ship or vessel subject to that person's ownership, possession or control and subject to property taxation under RCW 84.36.080. This listing is subject to the same requirements, penalties, and liens provided in chapters 84.40 and 84.60 RCW for all other personal property.

The listed owner of a ship or vessel as of January 1st of the assessment year is responsible for payment of the property tax for that vessel in the following year. A ship or vessel is subject to property taxation even if it is temporarily not within the limits of the state on January 1st of the year in which the vessel is to

be assessed. If ownership of a taxable ship or vessel is transferred after January 1st, the listed owner as of January 1st remains liable for payment of the full amount of tax payable in the following year. The full year's property tax may be abated only if the ship or vessel is damaged or destroyed and qualifies for a reduction in value under RCW 84.70.010.

For example, Seller A sells a taxable charter boat to Buyer B on August 14, 2002. Because Seller A was the listed owner as of January 1, 2002, Seller A is responsible for the entire year's property tax for the 2002 assessment year. That tax is due by April 30, 2003. Buyer B will be the listed owner for 2003 and responsible for the property tax for assessment year 2003, which is due by April 30, 2004.

(5) What happens if my ship or vessel is out of the state or being repaired during part of the year? A qualifying ship or vessel, referred to as an "apportionable vessel," may have its assessed value reduced to reflect certain circumstances. A reduction in assessed value also reduces the amount of tax due.

(a) What is an "apportionable vessel"? Under RCW 84.40.036, an "apportionable vessel" is a ship or vessel that is:

(i) Engaged in interstate commerce, meaning the transporting of persons or property from one state or territory of the United States to another;

(ii) Engaged in foreign commerce, meaning the transporting of persons or property between a state or territory of the United States and a foreign country; or

(iii) Engaged exclusively in fishing, tendering, harvesting and/or processing seafood products on the high seas or waters under the jurisdiction of other states.

(b) How is value apportioned? An apportionable vessel has its value apportioned as provided in this subsection.

(i) The value is apportioned based on the number of days or fractions of days that the vessel was within the limits of the state during the calendar year preceding the calendar year in which the vessel is assessed. No value is apportioned to this state unless the vessel is within the limits of the state for more than one hundred twenty days. Days during which a ship or vessel leaves the limits of the state only while navigating the high seas in order to travel between points in this state are considered as days within this state. A ship or vessel that does not qualify as an apportionable vessel under subsection (5)(a) of this rule may not have its value apportioned, regardless of the number of days the ship or vessel is within or outside the limits of the state.

(A) A "fraction of a day" means more than sixteen hours in a calendar day.

(B) The "limits of the state" means the boundaries of the

state of Washington abutting Canada, Oregon, and Idaho and three miles to the west of Washington's coast line.

(ii) Time during which an apportionable vessel is in the state exclusively for one or more of the following purposes is not considered as time within the limits of the state, if the length of time is reasonable to:

(A) Undergo maintenance, repair or alteration;

(B) Take on or discharge cargo, passengers or supplies; or

(C) Serve as a tug for a vessel under (A) or (B) of this subsection (5)(b)(ii).

A "reasonable length of time" includes a reasonable length of travel time to enter and leave the limits of the state exclusively for one of the purposes listed in (A) through (C) above. A ship or vessel engaging in any activity or use not described in (A) through (C) above, or merely being moored, is not considered to be within the state exclusively for the purposes described in this subsection.

(c) **Examples.** The following examples illustrate the application of the apportionment rules. These examples should be used only as a general guide. The tax results of other situations must be determined after a review of all facts and circumstances.

(i) Barge A loads cargo in Washington Port Z in eastern Washington. Loaded, Barge A embarks down the Columbia River to Vancouver, Washington and discharges its cargo. This activity does not qualify Barge A as an apportionable vessel because Barge A did not engage in interstate or foreign commerce. The barge would qualify as an apportionable vessel for the following assessment year if it had discharged its cargo at Portland, Oregon.

(ii) Charter Boat operates out of XYZ Charters, based in Anacortes, Washington. The charter begins in Anacortes and sails into Canadian waters for one month before returning to Anacortes to complete the charter. This activity does not qualify Charter Boat as an apportionable vessel because Charter Boat did not engage in foreign or interstate commerce; no persons or property were transported from one country or state to another.

(iii) Charter Boat operates out of XYZ Charters, based in Anacortes, Washington. Charter Boat is delivered to persons who board the vessel in Vancouver, British Columbia. Charter Boat cruises in Canadian waters for one month before returning to Anacortes where the passengers disembark, completing the charter. This transaction involves foreign commerce because persons were transported between another country and the United States. As a result, the vessel qualifies as an apportionable vessel and its value will be apportioned based upon the number of days the vessel is within the limits of the state during that calendar year.

(iv) Charter Boat carries passengers from Seattle to Juneau,

Alaska. Charter Boat then charters out of Alaska during the summer months. Charter Boat returns to Seattle in September for mooring and off-season repairs. The vessel qualifies as an apportionable vessel and its value will be apportioned to reflect the days the vessel is within the limits of the state during that calendar year. However, the days in Washington while the vessel is being repaired are not counted as days within the state, if reasonable in amount of time. On the other hand, the vessel's travel time within Washington waters while traveling to and from the state is counted as time within the state because the trip to this state was not exclusively for the purpose of repairs.

(v) Fishing Boat goes to Alaska each year to fish and returns to Seattle each fall for repair and maintenance. The vessel qualifies as an apportionable vessel and its value will be apportioned to reflect the days the vessel is within the limits of the state during that calendar year. The days in Washington for repair and maintenance are not counted, if the amount of time is reasonable. Travel time to and from Washington is also not counted as time within the state because the trip was exclusively for the purpose of obtaining repair and maintenance services. As a result, none of the vessel's value will be apportioned to Washington in this instance.

(vi) Charter Boat Owner A purchases a vessel on November 1, 2001. The boat had previously been used as a pleasure craft. The boat is first used in interstate commerce as a charter boat in January 2002 and spends half of the year outside of state waters in calendar year 2002. The boat is first listed in Owner A's name for tax purposes as of January 1, 2002. The vessel's entire value is assessed in 2002 because the vessel did not qualify as an apportionable vessel during calendar year 2001 (the calendar year preceding the assessment year). Owner A will first pay property taxes in the 2003 tax year based upon the vessel's value in the 2002 assessment year. The full amount of tax is due by April 30, 2003. The value for the 2003 assessment year will be apportioned based upon the boat's use in calendar year 2002 (50% of time within state waters). The amount of tax due for tax year 2004 will be based upon the 2003 assessed value and is due by April 30, 2004.

REPEALER

The following sections of the Washington Administrative Code are repealed:

THIS PROPOSED RULE IS SUBMITTED FOR PUBLIC COMMENTS AFTER INPUT FROM INTERESTED PARTIES AND IS TO BE USED SOLELY FOR DISCUSSION PURPOSES AT THE PUBLIC HEARING ON THE PROPOSED RULE. UNDER NO CIRCUMSTANCES IS THIS PROPOSED RULE TO BE USED TO DETERMINE TAX LIABILITY AND OR EXEMPTIONS.

WAC 458-17-105	Ships and vessels--Definitions.
WAC 458-17-110	Ships and vessels--Subject to property taxation.
WAC 458-17-115	Ships and vessels--Listing.
WAC 458-17-120	Ships and vessels--Apportionment of value.